

FOREIGN SERVICE OVERSEAS PAY EQUITY ACT OF 2008

SEPTEMBER 24, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of New Jersey, from the Committee on Foreign Affairs,  
submitted the following

R E P O R T

[To accompany H.R. 3202]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 3202) to amend the Foreign Service Act of 1980 to extend comparability pay adjustments to members of the Foreign Service assigned to posts abroad, and to amend the provision relating to the death gratuity payable to surviving dependents of Foreign Service employees who die as a result of injuries sustained in the performance of duty abroad, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

TABLE OF CONTENTS

The Amendment .....	Page 2
Summary .....	3
Background and Purpose for the Legislation .....	3
Hearings .....	4
Committee Consideration .....	4
Votes of the Committee .....	4
Committee Oversight Findings .....	4
New Budget Authority and Tax Expenditures .....	4
Congressional Budget Office Cost Estimate .....	5
Performance Goals and Objectives .....	7
Constitutional Authority Statement .....	7
New Advisory Committees .....	7
Congressional Accountability Act .....	7
Earmark Identification .....	7
Section-by-Section Analysis and Discussion .....	7
Changes in Existing Law Made by the Bill, as Reported .....	9

## THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Foreign Service Overseas Pay Equity Act of 2008”.

## SEC. 2. OVERSEAS COMPARABILITY PAY ADJUSTMENT.

(a) OVERSEAS COMPARABILITY PAY ADJUSTMENT.—

(1) IN GENERAL.—Chapter 4 of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following) is amended by adding at the end the following:

## “SEC. 415. OVERSEAS COMPARABILITY PAY ADJUSTMENT.

“(a) IN GENERAL.—A member of the Service who is designated class 1 or below for purposes of section 403 and whose official duty station is neither in the continental United States nor in a non-foreign area shall receive, in accordance with the phase-in schedule set forth in subsection (c), the same locality-based comparability payment under section 5304 of title 5, United States Code (stated as a percentage) as would be payable to such member if such member’s official duty station were in the District of Columbia.

“(b) TREATMENT AS BASIC PAY.—The amount of any locality-based comparability payment which is payable to a member of the Service by virtue of this section—

“(1) shall be considered to be part of the basic pay of such member—

“(A) for the same purposes as provided for under section 5304(c)(2)(A) of title 5, United States Code; and

“(B) for purposes of chapter 8; and

“(2) shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

“(c) PHASE-IN.—The locality-based comparability payment payable to a member of the Service under this section shall—

“(1) beginning on the first day of the first pay period beginning on or after the date that fiscal year 2009 appropriations are made available by enactment of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009, or April 1, 2009, whichever is earlier, be equal to 33.33 percent of the payment which would otherwise apply under subsection (a);

“(2) beginning on the first day of the first pay period in fiscal year 2010, be equal to 66.67 percent of the payment which would otherwise apply under subsection (a); and

“(3) beginning on the first day of the first pay period in fiscal year 2011 and each subsequent fiscal year, be equal to the payment determined under subsection (a).

“(d) NON-FOREIGN AREA DEFINED.—For purposes of this section, the term ‘non-foreign area’ has the same meaning as is given such term in regulations carrying out section 5941 of title 5, United States Code.”.

(2) CONFORMING AMENDMENT.—The table of contents set forth in section 2 of such Act is amended by inserting after the item relating to section 414 the following:

“Sec. 415. Overseas comparability pay adjustment.”.

(b) CONFORMING AMENDMENTS RELATING TO THE FOREIGN SERVICE RETIREMENT SYSTEMS.—

(1) CONTRIBUTIONS TO THE FUND.—Effective as of the first pay period beginning on or after October 1, 2010, section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking “7.25 percent” and inserting “7 percent”; and

(ii) in the second sentence, by striking “The contribution by the employing agency” through “and shall be made” and inserting “An equal amount shall be contributed by the employing agency”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “, plus an amount equal to .25 percent of basic pay”; and

(ii) in subparagraph (B), by striking “, plus an amount equal to .25 percent of basic pay”; and

(C) in paragraph (3), by striking all that follows “Code” and inserting a period.

(2) COMPUTATION OF ANNUITIES.—Section 806(a)(9) of such Act (22 U.S.C. 4046(a)(9)) is amended by striking “is outside the continental United States shall” and inserting “was outside the continental United States during the period beginning on December 29, 2002, and ending on the day before the first day of the first pay period beginning on or after October 1, 2010 (or during any portion thereof) shall, to the extent that such computation is based on the basic salary or basic pay of such member for such period (or portion thereof),”.

(3) ENTITLEMENT TO ANNUITY.—Section 855(a)(3) of such Act (22 U.S.C. 4071d(a)(3)) is amended—

(A) by striking “section 8414” and inserting “section 8415”; and

(B) by striking “is outside the continental United States shall” and inserting “was outside the continental United States during the period beginning on December 29, 2002, and ending on the day before the first day of the first pay period beginning on or after October 1, 2010 (or during any portion thereof) shall, to the extent that such computation is based on the basic salary or basic pay of such member for such period (or portion thereof),”.

(4) DEDUCTIONS AND WITHHOLDINGS FROM PAY.—Section 856(a)(2) of such Act (22 U.S.C. 4071e(a)(2)) is amended to read as follows:

“(2) The applicable percentage under this subsection shall be as follows:

<b>“Percentage</b>	<b>Time Period</b>
7.5	Before January 1, 1999.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
7.55	January 11, 2003, to the day before the first day of the first pay period beginning on or after October 1, 2010.
7.5	Beginning on the first day of the first pay period beginning on or after October 1, 2010.”.

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than October 1, 2010, the Secretary of State shall submit to the appropriate congressional committees an assessment of all allowances provided to members of the Foreign Service under the Foreign Service Act of 1980 or under title 5, United States Code, and in particular, how such allowances have been or will be affected by the amendments to the Foreign Service Act of 1980 made by this Act.

(2) DEFINITION.—For purposes of this subsection, the term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

#### SEC. 3. DEATH GRATUITY.

The first sentence of section 413(a) of the Foreign Service Act of 1980 (22 U.S.C. 3973(a)) is amended by striking “at the time of death” and inserting “at level II of the Executive Schedule under section 5313 of title 5, United States Code, at the time of death, except that for employees compensated under local compensation plans established under section 408, the amount shall be equal to the greater of 1 year’s salary at the time of death or 1 year’s salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death”.

#### SUMMARY

H.R. 3202, the Foreign Service Overseas Pay Equity Act of 2008, establishes an equalized global pay scale for junior members of the Foreign Service by resolving the pay discrepancy resulting from Washington D.C. based locality pay that is not received by Foreign Service personnel stationed overseas. The bill also amends the current death gratuity benefit to standardize the amount paid to surviving dependents of a Foreign Service employee who dies as a result of injuries sustained while serving abroad.

#### BACKGROUND AND PURPOSE FOR THE LEGISLATION

The Foreign Service Overseas Pay Equity Act of 2008 reforms the Foreign Service compensation system to eliminate, over a three-year period, wage disparities (currently 20.89%) between U.S.

Government employees who are members of the Foreign Service based in Washington D.C. who receive locality pay, and those overseas who do not. Locality-based comparability payments were initiated for certain Federal Government workers under the Federal Employees Pay Comparability Act of 1990 in order to make their salaries competitive with comparable employment in the private sector.

These payments were extended to employees of the Foreign Service, but only to those based within the United States. When low- or mid-level Foreign Service members are transferred from Washington D.C. to a post overseas, they experience a nearly 21% decrease in basic pay. In order to eliminate current and future inequalities between Foreign Service members stationed in the U.S. and those stationed abroad, H.R. 3202 increases overseas base salaries over a three-year phase-in period to match those paid to Washington, D.C.-based employees. This equitable system will make the Foreign Service more competitive with the private sector in recruiting and retaining employees.

The overseas death gratuity would also be amended to provide a more standardized benefit to surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad. This provision recognizes the risks that members of the Foreign Service face while serving in increasingly violent posts and situations.

#### HEARINGS

There were no Committee hearings on this legislation.

#### COMMITTEE CONSIDERATION

On July 16, 2008, the Committee held a markup and considered H.R. 3202. A motion to report the bill, as amended, to the House, a quorum being present, was agreed to by voice vote.

#### VOTES OF THE COMMITTEE

There were no recorded votes on H.R. 3202.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with Clause 3(c)(2) of House Rule XIII, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 17, 2008.*

Hon. HOWARD L. BERMAN, *Acting Chairman,*  
*Committee on Foreign Affairs,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3202, the Foreign Service Overseas Pay Equity Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226-2840.

Sincerely,

PETER R. ORSZAG.

Enclosure

cc: Honorable Ileana Ros-Lehtinen  
Ranking Member

*H.R. 3202—Foreign Service Overseas Pay Equity Act of 2008.*

## SUMMARY

H.R. 3202 would increase the compensation of certain employees of the Foreign Service who serve overseas. CBO estimates that implementing H.R. 3202 would cost \$1.3 billion over the 2009–2013 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues.

H.R. 3202 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3202 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

## BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 3202 will be enacted near the start of fiscal year 2009, that the estimated amounts will be appropriated each year, and that outlays will follow historical spending patterns for existing programs.

By Fiscal Year, in Millions of Dollars

	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	84	191	327	373	427	1,403
Estimated Outlays	72	172	300	355	409	1,309

*Pay for Overseas Postings*

Section 2 would increase compensation for Foreign Service Officers (FSOs) who are not members of the Senior Foreign Service

and are posted overseas. Under current law, FSOs based in the United States receive comparability pay in addition to their base pay, to reduce the pay disparity between federal and nonfederal workers. FSOs who are posted overseas do not receive those amounts. (Members of the Senior Foreign Service are compensated under a pay-for-performance system that does not differentiate pay by posting.)

Under the bill, FSOs who are posted overseas would be paid the same comparability pay received by FSOs posted to Washington, D.C. (That comparability pay represented about 17 percent of total basic pay for D.C. postings in 2008.) The bill also specifies a phase-in period: FSOs would receive one-third of the increased compensation in 2009, two-thirds in 2010, and the full annual amount starting in 2011. (Section 2 would not increase retirement benefits, because FSOs who retire from overseas postings have their annuities calculated as though their official duty station had been Washington, D.C.)

Recent data from the Department of State indicate that roughly 8,300 FSOs are posted overseas and have an average basic pay of about \$75,000. In comparison, FSOs posted in Washington have an average basic pay of about \$91,000. Eliminating the difference between pay for overseas and D.C. postings, and adjusting the new pay level to reflect estimated growth in comparability pay (which saw average growth of 9.5 percent a year over the past three years) yields an estimated cost for 2009 of \$42 million—one-third of \$126 million.

The above increase in basic pay also would lead to an increase in other benefits paid to FSOs, such as life insurance, health insurance, hardship pay, and danger pay. According to the department, those types of compensation have historically averaged about 71 percent of basic pay. Therefore, CBO estimates that under the bill, in 2009, the department would pay another \$30 million—one-third of \$89 million—in other compensation, for a total cost of \$72 million that year. After adjusting for inflation, CBO estimates that costs for implementing section 2 would total \$1.3 billion over the 2009–2013 period, assuming appropriation of the necessary amounts.

#### *Death Gratuities*

Section 3 would increase the death gratuities payable to the surviving dependents of Foreign Service employees who die as a result of injuries sustained in the performance of their duty overseas. Under current law, the death gratuity equals an employee's annual salary at the time of death. Under the bill, the department would pay one year's salary at level II of the Executive Schedule at the time of death or, if the employee was compensated under a local compensation plan, one year's salary at highest pay level under that plan at the time of their death. Based on historical data from the department, CBO estimates that fewer than five death gratuities would be paid each year and that implementing this section would cost less than \$500,000 a year, and total \$1 million, over the 2009–2013 period, assuming the availability of appropriated funds.

## INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3202 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

## ESTIMATE PREPARED BY:

Federal Costs: Sunita D'Monte (226-2840)

Impact on State, Local, and Tribal Governments: Neil Hood (225-3220)

Impact on the Private Sector: MarDestinee Perez (226-2940)

## ESTIMATE APPROVED BY:

Peter H. Fontaine

Assistant Director for Budget Analysis

## PERFORMANCE GOALS AND OBJECTIVES

The Act is intended to resolve the current pay discrepancy resulting from Washington D.C. based locality pay that is not received by Foreign Service personnel stationed overseas. The bill also amends the current death gratuity benefit.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

## NEW ADVISORY COMMITTEES

H.R. 3202 does not establish or authorize any new advisory committees.

## CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 3202 does not apply to the Legislative Branch.

## EARMARK IDENTIFICATION

H.R. 3202 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Section 1. Short Title.*

This section provides that the short title of the Act is the, "Foreign Service Overseas Pay Equity Act of 2008."

*Section 2. Overseas Comparability Pay Adjustment.*

This section would amend Chapter 4 of the Foreign Service Act of 1980 (22 U.S.C. 3961 and following) to stipulate that Foreign Service Officers designated class 1 or below, stationed outside the continental United States and not in a non-foreign area, receive locality-based comparability payments under section 5304 of title 5, United States Code, that would be paid to a member if his or her official duty station were in Washington, D.C.

Since this is a substantial pay increase for approximately 7,000 overseas personnel, the adjustment will be phased in over 3 years. The Congressional Budget Office estimates that the cost in FY 2009 will be \$72 million, in FY 2010 will be \$172 million, and an average of \$300–400 million in subsequent years.

The section also makes conforming amendments to Chapter 8 of the Foreign Service Act of 1980 to remove certain provisions related to the Foreign Service Retirement and Disability Fund (the “Fund”) and Foreign Service Pension System. Foreign Service retirement benefits are computed on the basis of basic salary, which includes locality pay. Under the current system, the provision of locality pay and the higher basic salary levels in Washington, D.C. provide a serious disincentive for Foreign Service Officers to serve overseas later in their careers when their basic salary level directly impacts the level of their retirement benefits. The discrepancy has skewed incentives to serve overseas.

Certain changes were made to the Fund and Pension System provisions to remove this disincentive by adjusting basic salary computations to include locality pay differentials solely for purposes of determining retirement benefits. Subsection (b) sunsets the application of this overseas “virtual locality pay,” which no longer will be required after implementation of the global pay scale. However, virtual locality pay in effect before October 2010 will continue to be used in computing annuities for employees who retire after the new global pay scale takes effect.

The reporting requirement to the appropriate congressional committees includes a specific requirement that the Secretary of State provide an assessment as to how all allowances provided to members of the Foreign Service under the Foreign Service Act of 1980 or under title 5 of the United States Code have been or will be affected by the amendments to the Foreign Service Act of 1980 made by this Act. The Committee is interested in knowing how much the allowances may increase as a result of global locality pay, both on an individual basis in each country and in the aggregate. The Committee would also like the report to include an assessment regarding the level of allowances that would be required to recruit Foreign Service Officers to hardship, danger and other relevant posts given their increased overall salary. The Committee also would like an analysis as to whether any increase to allowances creates an unintended distortion in the amount of such allowances in relation to the purpose for which allowances are intended.

### *Section 3. Death Gratuity.*

This section amends section 413 of the Foreign Service Act of 1980 to provide a more uniform gratuity to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad. Currently, the amount of the gratuity is equal to the employee’s annual salary at the time of death. The amendment would adjust the gratuity for all Foreign Service Officers to level II of the Executive Schedule under section 5313 of title 5 of the United States Code at the time of death. Executive-level II is currently \$172,200. Dependents of employees who are paid in accordance with a local compensation plan under section 408 of the Foreign Service Act of 1980 would be paid one year’s salary at the highest step of the highest grade on that



local compensation plan or one year's actual salary at the time of death, whichever is greater.

The Committee expects that dependents of personnel at overseas posts who are employed by private security contractors and pursuant to personal service agreements will receive the same gratuity as employees who are paid in accordance with a local compensation plan under section 408. The requirement that such death gratuity be provided should be included in all local contracts covering such personnel.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

### FOREIGN SERVICE ACT OF 1980

\* \* \* \* \*

SEC. 2. TABLE OF CONTENTS.—The table of contents for this Act is as follows:

#### TABLE OF CONTENTS

\* \* \* \* \*

#### CHAPTER 4—COMPENSATION

Sec. 401. Salaries of chiefs of mission.

\* \* \* \* \*

Sec. 415. *Overseas comparability pay adjustment.*

\* \* \* \* \*

### TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

\* \* \* \* \*

#### CHAPTER 4—COMPENSATION

\* \* \* \* \*

SEC. 413. Death Gratuity.—(a) The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary [at the time of death] *at level II of the Executive Schedule under section 5313 of title 5, United States Code, at the time of death, except that for employees compensated under local compensation plans established under section 408, the amount shall be equal to the greater of 1 year's salary at the time of death or 1 year's salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death.* Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

\* \* \* \* \*

**SEC. 415. OVERSEAS COMPARABILITY PAY ADJUSTMENT.**

(a) *IN GENERAL.*—A member of the Service who is designated class 1 or below for purposes of section 403 and whose official duty station is neither in the continental United States nor in a non-foreign area shall receive, in accordance with the phase-in schedule set forth in subsection (c), the same locality-based comparability payment under section 5304 of title 5, United States Code (stated as a percentage) as would be payable to such member if such member's official duty station were in the District of Columbia.

(b) *TREATMENT AS BASIC PAY.*—The amount of any locality-based comparability payment which is payable to a member of the Service by virtue of this section—

(1) shall be considered to be part of the basic pay of such member—

(A) for the same purposes as provided for under section 5304(c)(2)(A) of title 5, United States Code; and

(B) for purposes of chapter 8; and

(2) shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

(c) *PHASE-IN.*—The locality-based comparability payment payable to a member of the Service under this section shall—

(1) beginning on the first day of the first pay period beginning on or after the date that fiscal year 2009 appropriations are made available by enactment of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009, or April 1, 2009, whichever is earlier, be equal to 33.33 percent of the payment which would otherwise apply under subsection (a);

(2) beginning on the first day of the first pay period in fiscal year 2010, be equal to 66.67 percent of the payment which would otherwise apply under subsection (a); and

(3) beginning on the first day of the first pay period in fiscal year 2011 and each subsequent fiscal year, be equal to the payment determined under subsection (a).

(d) *NON-FOREIGN AREA DEFINED.*—For purposes of this section, the term “non-foreign area” has the same meaning as is given such term in regulations carrying out section 5941 of title 5, United States Code.

\* \* \* \* \*

## CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY

### SUBCHAPTER I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

\* \* \* \* \*

**SEC. 805. Contributions to the Fund.**—(a)(1) Except as otherwise provided in this section, [7.25 percent] 7 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. [The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under section 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105–33; 22 U.S.C. 4045 note), and section 505(h)

of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-346; 114 Stat. 1356A-54), plus .25 percent of basic salary, and shall be made. *An equal amount shall be contributed by the employing agency* from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the employing agency.

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) the employing agency shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5, plus an amount equal to .25 percent of basic pay. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the employing agency.

(B) The employing agency shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5, plus an amount equal to .25 percent of basic pay. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the employing agency.

(3) For service as a special agent, paragraph (1) shall be applied by substituting for “7 percent” the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, United States Code, plus .25 percent.

\* \* \* \* \*

SEC. 806. Computation of Annuities.—(a)(1) \* \* \*

\* \* \* \* \*

(9) For purposes of any annuity computation under this subsection, the basic salary or basic pay of any member of the Service whose official duty station *is outside the continental United States shall* *was outside the continental United States during the period beginning on December 29, 2002, and ending on the day before the first day of the first pay period beginning on or after October 1, 2010 (or during any portion thereof) shall, to the extent that such computation is based on the basic salary or basic pay of such*

*member for such period (or portion thereof), be considered to be the salary or pay that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.*

\* \* \* \* \*

#### SUBCHAPTER II—FOREIGN SERVICE PENSION SYSTEM

\* \* \* \* \*

#### SEC. 855. Entitlement to Annuity.—(a)(1) \* \* \*

\* \* \* \* \*

(3) For purposes of any annuity computation under this subsection, the average pay (as used in **section 8414** *section 8415* of title 5, United States Code) of any member of the Service whose official duty station **[is outside the continental United States shall]** *was outside the continental United States during the period beginning on December 29, 2002, and ending on the day before the first day of the first pay period beginning on or after October 1, 2010 (or during any portion thereof) shall, to the extent that such computation is based on the basic salary or basic pay of such member for such period (or portion thereof), be considered to be the salary that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.*

\* \* \* \* \*

#### SEC. 856. Deductions and Withholdings From Pay.—(a)(1) \* \* \*

**[(2) The applicable percentage under this subsection shall be as follows:**

7.5	Before January 1, 1999.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
7.55	After January 11, 2003.]

*(2) The applicable percentage under this subsection shall be as follows:*

<b>Percentage</b>	<b>Time Period</b>
7.5	<i>Before January 1, 1999.</i>
7.75	<i>January 1, 1999, to December 31, 1999.</i>
7.9	<i>January 1, 2000, to December 31, 2000.</i>
7.55	<i>January 11, 2003, to the day before the first day of the first pay period beginning on or after October 1, 2010.</i>
7.5	<i>Beginning on the first day of the first pay period beginning on or after October 1, 2010.</i>
*	*